

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

Joseph Dixon,

Petitioner,

v.

Case No. 11-11882

Hugh Wolfenbarger

Respondent.

ORDER

**ADOPTING MAY 5, 2012 R&R, DISMISSING THIS ACTION,
AND DECLINING TO ISSUE CERTIFICATE OF APPEALABILITY**

Acting *pro se*, Petitioner Joseph Dixon filed a Petition for a Writ of Habeas Corpus on April 28, 2011. Thereafter, the matter was referred to Magistrate Judge Paul Komives for all pretrial proceedings.

On November 3, 2011, Respondent filed a Motion for Summary Judgment. Petitioner failed to file a response to that motion, even after being ordered to do so. (*See* Docket Entry No. 9).

On May 5, 2012, Magistrate Judge Komives issued a Report and Recommendation (“R&R”), wherein he recommends that: 1) the Court should dismiss Petitioner’s application for a writ of habeas corpus because it is barred by the one year statute of limitations contained in 28 U.S.C. § 2244(d); and 2) the Court should decline to issue a certificate of appealability. The R&R expressly advised the parties that they could file objections to the R&R but they must do so within 14 days. (*Id.* at 22).

The time for filing objections has passed and the docket reflects that neither party has filed any objections. The Court hereby ADOPTS the May 5, 2012 R&R and ORDERS that this

action shall be DISMISSED because Petitioner's application for a writ of habeas corpus is barred by the one year statute of limitations contained in 28 U.S.C. § 2244(d).

IT IS FURTHER ORDERED that the Court declines to issue a certificate of appealability because Petitioner cannot show that the Court's ruling on the procedural issue is reasonably debatable.

IT IS SO ORDERED.

Dated: June 5, 2012

S/ Sean F. Cox

Sean F. Cox

U. S. District Court Judge

I hereby certify that on June 5, 2012, the foregoing document was served upon counsel of record by electronic means and upon Joseph Dixon by First Class Mail at the address below:

Joseph Dixon
208552
Macomb Correctional Facility
34625 26 Mile Road
New Haven, MI 48048

Dated: June 5, 2012

S/ J. Hernandez

Case Manager